

FILED
CLERK

11:48 am, May 28, 2020

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL CALLARI, individually and on
behalf of other persons similarly situated who
were employed by BLACKMAN PLUMBING
SUPPLY, INC., and/or any other entities affiliated
with or controlled by BLACKMAN PLUMBING
SUPPLY, INC.,

ADOPTION ORDER
2:11-cv-3655 (ADS) (AKT)

Plaintiffs,

-against-

BLACKMAN PLUMBING SUPPLY, INC.,
ROBERT MANNHEIMER, AS
CO-EXECUTOR OF THE ESTATE OF
RICHARD BLACKMAN, AND ROBERT A.
TEPEDINO, AS CO-EXECUTOR OF THE
ESTATE OF RICHARD BLACKMAN, and
JOHN DOES #1-10,

Defendants.

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SPATT, District Judge:

On July 29, 2011, the Plaintiff, individually and on behalf of other persons similarly situated, commenced this action against the Defendants, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 207, and 216, New York Labor Law § 663, NYLL, §§ 190 et seq., and the 12 New York Codes, Rules and Regulations (“NYCRR”) § 142-2.2.

On November 9, 2018, the Court reviewed a settlement of the action pursuant to a fairness hearing under the authority of *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). During the hearing, the Court approved the proposed settlement, but reserved decision regarding the amount of attorney’s fees to-be-awarded pending a formal application by the Plaintiffs.

On May 31, 2019, the Plaintiffs moved for an award of attorney's fees and costs, pursuant to 29 U.S.C. § 216(b) and New York Labor Law § 198.

On June 4, 2019, the Court referred the matter to United States Magistrate Judge A. Kathleen Tomlinson for a recommendation as to whether the motion should be granted, and if so, what relief, if any, should be awarded.

On May 4, 2020, Judge Tomlinson issued a Report and Recommendation ("R&R") that the Plaintiffs be awarded attorney's fees in the sum of \$168,032.70 and costs in the sum of \$350. With regard to costs, the Plaintiffs sought to \$10,860.57 in costs as follows: (1) \$350.00 for the filing fee; (2) \$210.00 for service of process; (3) \$9,827.57 for deposition transcripts; and (4) \$473.00 for mailing. In support of these costs, Plaintiffs submitted billing records which itemized the expenses but failed to provide the underlying documentation such as invoices, receipts or other documentary proof. Thus, the R&R also recommended that the Plaintiffs be given 30 days to provide the missing documentation of their costs as set forth in this Report and Recommendation.

That same day, Judge Tomlinson electronically served the R&R on the parties. It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

On May 20, 2020, the Plaintiffs submitted an affidavit, attaching the documentation requested by the R&R outlining their costs. The Court has reviewed those documents, and finds that the Plaintiffs adequately demonstrated that they incurred legal costs totaling \$10,860.57.

Accordingly, the R&R is adopted in its entirety. The Court awards the Plaintiffs attorney's fees in the sum of \$168,032.70 and costs in the sum of \$10,860.57. Pursuant to the Court's ruling at the November 9, 2018 hearing finding that the of the settlement complies with *Cheeks*, the Clerk of the Court is respectfully directed to close the case.

SO ORDERED.

Dated: Central Islip, New York

May 28, 2020

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge